

**DURHAM, NORTH CAROLINA
MONDAY, FEBRUARY 17, 1997
7:30 P.M**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Absent: Council Member Wright.

Also present: Interim City Manager Cecil Brown, City Attorney William I. Thornton, Jr., City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Kerckhoff called the meeting to order asking for priority items from the City Manager, City Attorney and City Clerk. City Clerk Bowers informed the council that she was in receipt of a letter requesting withdrawal of the valid protest petition filed against GBA #24, Zoning Case P96-52. **[No priority items from the City Manager/City Attorney]**

At this time, a slide presentation and comments were made by Council Member Miller on the Police Study Report and Findings.

For the viewing public and the audience, Mayor Kerckhoff made comments on the Early-Out Incentive Plan being offered to city employees.

The Mayor announced that GBA Item 33b [Revocation of Operator's License, P. M. Cab Company #113] would be continued to the March 3, 1997 City Council Meeting.

Mayor Kerckhoff asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. Council Member Cox requested that Consent Item #5 be pulled. Council Member McKissick requested that Consent Item 18(c) be pulled. The Mayor noted the revisions to the General Business Agenda relative to Items 20, 21, 32, and 34.

MOTION by Council Member Larson seconded by Council Member Miller to approve the Consent Agenda as amended was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

CONSENT AGENDA

**SUBJECT: TRIANGLE TRANSIT COMPREHENSIVE ANNUAL REPORT AND
UPDATE ON REGIONAL RAIL SYSTEM**

MOTION by Council Member Larson seconded by Council Member Miller to receive the Triangle Transit Comprehensive Annual Report and Update on the Regional Rail System was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: RALEIGH-DURHAM AIRPORT AUTHORITY - APPOINTMENT

MOTION by Council Member Larson seconded by Council Member Miller to appoint Kenneth Demire Gibbs to the Raleigh-Durham Airport Authority for a two-year term to expire January 1, 1999 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: DURHAM CIVIC CENTER RATE SCHEDULE AMENDMENTS

MOTION by Council Member Larson seconded by Council Member Miller to approve amendments to the Durham Civic Center Rate Schedule as shown in the attached letter from Robert Appleby dated January 21, 1997 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

**SUBJECT: AGREEMENTS TO FACILITATE PRIVATE MORTGAGE
REFINANCING BY SHANER HOTEL GROUP ON DURHAM OMNI
HOTEL**

a. Landlord Certificate (Air Space Agreement)

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Landlord Certificate relating to the Civic Center Air Space Agreement was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

b. Landlord Certificate (Parking Lot Lease)

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Landlord Certificate relating to the Civic Center Parking Lot Lease was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

c. Certificate of Owner (Civic Center Catering Agreement)

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Certificate of Owner relating to the Civic Center Catering Agreement was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

**SUBJECT: PROPOSED SALE OF PROPERTY AT 10 KNOB COURT
(TIMBERSTONE SUBDIVISION) TAX MAP 377-01-42, DIONNIE
F. RAGLAND**

MOTION by Council Member Larson seconded by Council Member Miller to accept the offer of \$70,000.00 from Dionnie F. Ragland to purchase property at 10 Knob Court with such offer contingent upon receiving 20% second mortgage financing from the City through the City's first time home-buyers program was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: HILLSIDE PARK PARTF GRANT APPLICATION

MOTION by Council Member Larson seconded by Council Member Miller to authorize the Mayor and City Manager to sign the application for the 1997 NC Parks and Recreation Trust Grant was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

**SUBJECT: RETIREMENT SYSTEM ENROLLMENT CHANGE FOR CITY
EMPLOYEES**

MOTION by Council Member Larson seconded by Council Member Miller to adopt an "Ordinance Amending Chapter 14 of the Code of Ordinances of the City of Durham to Provide for Enrollment

of City Employees in the Local Retirement System Upon First Day of Employment and to Facilitate the Ability of Current Employees to Purchase Retirement Credits for the Six Month Waiting Period Presently Required Before Enrollment in the Retirement System" was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11028

SUBJECT: BUDGET CARRY OVERS AND DEPARTMENTAL SAVINGS

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the Administration concerning budget carry overs and departmental savings was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: RESOLUTION SETTING HEARING TO CONSIDER ALTERNATIVES SITES AND SOCIOECONOMIC AND DEMOGRAPHIC DATA

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Setting Hearing to Consider Alternative Sites and Socioeconomic and Demographic Data" -- public hearing, Monday, March 3, 1997, 7:30 p.m. was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Resolution #8303

SUBJECT: RESOLUTION TO DESIGNATE AMENDING THE WATERSHED PROTECTION PROVISIONS OF THE DURHAM ZONING ORDINANCE AS COUNCIL-INITIATED AND TO SCHEDULE A PUBLIC HEARING CONCERNING THE SAME

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution to Designate Amending the Watershed Protection Provisions of the Durham Zoning Ordinance as Council-Initiated and to Schedule a Public Hearing Concerning the Same"--public hearing, Monday March 17, 1997, 7:30 p.m. was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Resolution #8304

SUBJECT: BANNING RECYCLABLES IN FUTURE LANDFILLS OR TRANSFER STATIONS

MOTION by Council Member Larson seconded by Council Member Miller to set a public hearing on Monday, March 3, 1997 concerning banning recyclables from any future landfills or transfer stations was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: LIVE FIRE TRAINING EXERCISE - BURNING OF HOUSE AT 3540 ROSE OF SHARON ROAD

MOTION by Council Member Larson seconded by Council Member Miller to approve burning the house at 3540 Rose of Sharon Road for live fire training for the Durham Fire Department was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: VOLUNTARY PETITION FOR ANNEXATION FY 1997 - TREYBURN WB-1

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the Administration for the annexation of Treyburn WB-1, 35.874 acres non-contiguous to the City Limits, located west of Vintage Hill Parkway and east of the Little River Reservoir;

To accept the City Clerk's certification of 100% ownership as required by General Statutes 160A-58; and

To adopt a "Resolution to Schedule a Public Hearing to Consider the Annexation of Treyburn WB-1"--public hearing on Monday, March 3, 1997, 7:30 p.m. was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Resolution #8305

SUBJECT: STREET CLOSING - FARTHING STREET, CS96-12

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution declaring the intent of the City Council to consider permanently closing a 10,776± square foot portion of Farthing Street, north of Murray Avenue and setting a public hearing on Monday, March 3, 1997 to consider closing a 10,776± square foot portion of Farthing Street, north of Murray Avenue was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Resolution #8306

SUBJECT: LICENSE AGREEMENT - DUKE UNIVERSITY ELECTRICAL CONDUIT

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a license agreement with Duke University for installation of electrical conduit under Anderson Street was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: RESOLUTION MEMORIALIZING CARL EDWARD WASHINGTON, JR.

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Memorializing Carl Edward Washington, Jr." was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Resolution #8307

SUBJECT: SITE PLAN APPROVAL - MIAMI NORTH OFFICE COMPLEX

MOTION by Council Member Larson seconded by Council Member Miller to approve a site plan for Miami North Office Complex consisting of four buildings totaling 72,000 square feet with 291 parking spaces proposed on 6.43 acres, zoned O & I-2, located north of I-40 and west of Miami Boulevard (Tax Map #582-1-1D) was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: PRELIMINARY PLAT AND SITE PLAN APPROVAL - "POD QQ REVISED"

MOTION by Council Member Larson seconded by Council Member Miller to approve a preliminary plat and site plan for "Pod QQ Revised" in Hope Valley Farms, submitted by CASWYCK-HVF, LLC. consisting of a total of 38 single family lots on 6.7 acres zoned PDR-3.44, located on the south side of Juliette Drive and the east side of Cook Road (Tax Map #515-01-28) was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: CONTRACT EXTENSION - GRASS MOWING SERVICES FOR WATER RESOURCES PUMP STATIONS, TARHEEL LAWN AND BUILDING MAINTENANCE, INC.

MOTION by Council Member Larson seconded by Council Member Miller to authorize the City Manager to extend the existing contract with Tarheel Lawn & Building Maintenance, Inc. in the amount of \$30,030.00 for grass mowing services for approximately 48 pump stations was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: PARKING PROHIBITION - MATHISON STREET

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance to prohibit parking at all times at the following locations:

- a. On the north side of Mathison Street from Lakeland Street to Sowell Street, and
- b. On the north side of Mathison Street in the area beginning at the east curb line of Sowell Street, if extended, and extending 127 feet eastwardly

was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11029

SUBJECT: FOUR-WAY STOP SIGNS - MATHISON STREET (FORMERLY HARRELL AVENUE - LAKELAND STREET)

- a. **MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance to:
- 1) repeal Ordinance #3177, adopted 9/21/70, which authorized the installation of a stop sign on Harrell Avenue at Lakeland Street, south west corner; and
 - 2) repeal Ordinance #2740, adopted 8/19/68, which authorized the installation of a stop sign on Harrell Avenue at Lakeland Street, northeast corner was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11030

- b. **MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance to authorize the installation of a four-way stop at Mathison Street (formerly Harrell Street) - Lakeland Street intersection was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11031

SUBJECT: REPEALING SCHOOL LIMIT - OLD OXFORD HIGHWAY

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance to repeal that portion of Ordinance #4212, adopted 2/3/75, which established a 25 mph speed limit during school hours on Old Oxford Highway in the area beginning at the west curb line of Duke Lane, if extended, and extending for a distance of 1,160 feet westwardly was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11032

SUBJECT: STOP SIGNS - LIBERTY COMMONS SUBDIVISION

MOTION by Council Member Larson seconded by Council Member

Miller to adopt an ordinance to authorize the installation of stop signs at the following locations in Liberty Commons Subdivision:

- 1) Grace Drive at Liberty Street, northwest corner; and
- 2) Grace Drive at Elizabeth Street, southwest corner

was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11033

SUBJECT: STOP SIGN - CHEEK STREET

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of a stop sign on Cheek Street at East Geer Street, southwest corner was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11034

SUBJECT: STOP SIGNS - SOVEREIGN STREET

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of stop signs at the following locations:

- 1) Sovereign Street at Alabama Avenue, northeast corner;
- 2) Sovereign Street at Alabama Avenue, southwest corner;
and
- 3) Sovereign Street at Tampa Avenue, northeast corner

was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11035

SUBJECT: STOP SIGNS - LAKEHURST SUBDIVISION

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of

stop signs at the following locations:

- 1) Stinhurst Drive at Herndon Road, eastern corner;
- 2) Avonlea Court at Stinhurst Drive, northern corner;
- 3) Rhygate Court at Stinhurst Drive, northern corner; and
- 4) Haycox Court at Stinhurst Drive, southeast corner

was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11036

SUBJECT: STOP SIGNS - MERIDIAN BUSINESS CAMPUS

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of stop signs at the following locations:

- 1) Meridian Parkway (2800 Block) at Meridian Parkway (2500 Block), northwest corner;
- 2) North Bend Drive at Meridian Parkway, northwest corner; and
- 3) North Bend Drive at Carpenter Fletcher Road, southeast corner

was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11037

SUBJECT: STOP SIGN - WOODLAKE SUBDIVISION

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of a stop sign on Hanska Court at Tahoe Drive, southern corner was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11038

SUBJECT: STREET ACCEPTANCE - ANSON AND ROCK STREETS

MOTION by Council Member Larson seconded by Council Member Miller to accept the following streets for maintenance by the City of Durham:

- a. Anson Street - from the centerline of Person Street west through the cul-de-sac (353'), and
- b. Rock Street - from the end of existing pavement south through the cul-de-sac (238')

was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: SEWER MAIN - WHITFIELD ROAD FROM MORRENE ROAD TO TURNAGE HEIGHTS OUTFALL (ENABLING ACT AUTHORITY)

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution setting a public hearing on Monday, March 3, 1997 to consider ordering sewer main improvements on Whitfield Road from Morreene Road to Turnage Heights Outfall under the Enabling Act Authority was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: SEWER MAIN - KELLY DRIVE FROM GATLIN COURT TO EAST PROPERTY LINE TAX MAP 469-2-3

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution setting a public hearing on Monday, March 3, 1997 for confirmation of the assessment roll for sewer main on Kelly Drive from Gatlin Court to east property line Tax Map 469-2-3 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: TIME PAYMENT PETITIONS

MOTION by Council Member Larson seconded by Council Member Miller to approve the three Time Payment Petitions listed below was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

1. Edmond M. and Dovie B. Bass - 416 Denton Street - Water Lateral and Water Capital Facility Fee
2. Tod A. and Jennifer L. Laursen - 5310 Russell Road - Water Lateral, Wter Main and Water Capital Facility Fee
3. Francis C. and Patricia E. Sharpe - 4617 Reigalwood Road - Sewer Lateral, Sewer Main and Sewer Capital Facility Fee

SUBJECT: SETTING PUBLIC HEARING ON PROPOSED PLAN OF FINANCING PRIVATE ACTIVITY REVENUE BONDS - PARKVIEW APARTMENTS, THE REGENCY GROUP, INC. AND THE AKA SORORITY

MOTION by Council Member Larson seconded by Council Member Miller to set a public hearing on Monday, March 3, 1997 to receive citizens' comments on a proposed plan of financing by the City for the issuance of its private activity revenue bonds in an amount not to exceed \$5,500,000 for the financing, acquisition, construction and rehabilitation of a multifamily residential rental project currently known as Parkview Apartments by a limited partnership to be formed by The Regency Group, Inc. and the AKA Sorority was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: BID REPORT, DECEMBER 1996

MOTION by Council Member Larson seconded by Council Member Miller to approve and record in the minutes bids and items which were acted upon by the City Manager during the month of December 1996 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

[See Attachment #1 for itemized bid report]

SUBJECT: CITY COUNCIL MINUTES - CITY CLERK'S OFFICE

MOTION by Council Member Larson seconded by Council Member Miller to approve the official minutes of the regular January 21, 1997 City Council Meeting was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes:

None. Absent: Council Member Wright.

GENERAL BUSINESS AGENDA

[PUBLIC HEARINGS]

SUBJECT: Water Main - Cortez Drive from Angier Avenue to North Property Line of Tax Map 591-1-47

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution confirming the assessment roll for water main on Cortez Drive from Angier Avenue to north property line of Tax Map 591-1-47 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: Water Main - Sunny Court from Fleming Drive to Fleming Drive

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Due to objections, City Engineer Ken Wright requested that the properties of Robert Wheeler and Thomas Faulkner be referred to the Public Works Committee for further consideration.

There being no further allegations and/or objections, the public hearing was closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution confirming the assessment roll for water on Sunny Court from Fleming Drive to Fleming Drive **and to refer the properties of Robert Wheeler and Thomas Faulkner to the Public Works Committee for further consideration** was approved at 7:53 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: Water Main - Hocutt Road from Sherron Road to Nichols Drive - **Mini Assessment Roll**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

a. Property of Janet F. Nesbitt

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Janet F. Nesbitt, identified as Tax Map #665-2-23, 225 Hocutt Road, Lots 17 and 18, vacant, has not benefited from the water main improvement at this time and to relieve the assessment in the amount of \$1,592.00 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the water service (in accordance with City policy); and

To find that the property of Janet F. Nesbitt, identified as Tax Map #665-2-21, 215 Hocutt Road, Lots 13 and 14, vacant, has not benefited from the water main improvement at this time and to relieve the assessment in the amount of \$2,507.40 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the water service (in accordance with City policy) was approved at 7:53 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

b. Property of Charlie S. and Alice F. Tharrington

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Charlie S. and Alice F. Tharrington, identified as Tax Map #665-2-12, 308 Hocutt Road, Lots 66 and 67, has benefited from the water main improvement and to confirm the assessment in the amount of \$1,592.00 (corrects frontage--in accordance with City policy) was approved at 7:53 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: Sewer Main - Kelly Drive from Crown Hill Drive to Gatlin Court - Mini Assessment Roll

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

a. Property of Jack D. and Marilyn C. Flanary

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Jack D. and Marilyn C. Flanary, identified as Tax Map #469-2-12, 4017 Kelly Drive, Lot 12, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$1,400.00 was approved at 7:53 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

b. Property of Jack D. Flanary

MOTION by Council Member Larson seconded by Council Member Miller to find that the property of Jack D. Flanary, identified as Tax Map #469-2-11, Kelly Drive, Lot 11, vacant, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$1,400.00 was approved at 7:53 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: Sewer Main - Stallings Road from Stallings Road
Outfall to Husketh Drive

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

a. Property of M. W. and Frances E. Chandler

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of M. W. and Frances E. Chandler, identified as Tax Map #669-1-14, 1000 Stallings Road, no lot number, has not benefited at this time from the sewer main improvement and to relieve the assessment in the amount of \$15,869.25 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer main (in accordance with City policy) was approved at 7:53 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

b. Property of Betsy R. Cox

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of Betsy R. Cox, identified

as Tax Map #668-1-18, 620 Stallings Road, no lot number, has not benefited at this time from the sewer main improvement and to relieve the assessment in the amount of \$20,637.31 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer main (in accordance with City policy) was approved at 7:53 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

c. Property of TDC 98 Partnership

MOTION by Council Member Larson seconded by Council Member Griffin to find that the property of TDC 98 Partnership, identified as Tax Map #668-1-9, Stallings Road, 46.323 acres, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$22,703.80 (assessed at maximum City rate, part of Grove Park--in accordance with City policy); and

To find that the property of TDC 98 Partnership, identified as Tax Map #668-1-7, Stallings Road, 31,703 acres, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$5,060.30 (assessed at maximum City rate, part of Grove Park--in accordance with City policy) was approved at 7:53 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ASSESSMENT ROLL FOR SEWER MAIN - GREYMOSS AND TRAPPERS CREEK AREA

MOTION by Council Member Larson seconded by Council Member Griffin to continue the public hearing until Monday, April 21, 1997 for confirmation of the Assessment Roll for **Sewer Main on Riverdale Drive** from Umstead Road to Hallmark Road; **Sunny Oak Place** from Riverdale Drive to cul-de-sac; **Hallmark Road** from Umstead Road to north property line of Tax Map 835-4-34; **Redding Lane** from Bayleaf Drive to east property line of Tax Map 835-3-15; **Bayleaf Drive** from Hallmark Road to cul-de-sac; **Bessemer Place** from Hallmark Road to cul-de-sac; **Fairoaks Road** from Riverdale Drive to north property line of Tax Map 835-4-4; **Ventura Drive** from Fairoaks Road to Brocton Place and **Trappers Court** from Riverdale Drive to cul-de-sac was approved at 7:54 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: Water Main - Oakview Street - from Pennock Road to West Property Line Tax Map 636-8-15

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution ordering water main improvements on Oakview Street from Pennock Road to west property line of Tax Map 636-8-15 was approved at 7:54 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: Water Main - U.S. 501 - from Massey Road to Smith Drive

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution ordering water main improvements on U.S. 501 from Massey Road to Smith Drive was approved at 7:55 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: Sewer Main - Oakview Street - from Pennock Road to West Property Line Tax Map 636-8-15 and **Oakview Street Outfall** from Oakview Street to Pennock Road Outfall

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution ordering sewer main improvements on Oakview Street from Pennock Road to west property line of Tax Map 636-8-15 and Oakview Street Outfall from Oakview Street to Pennock Road Outfall was approved at 7:55 p.m. by the following vote: Ayes: Mayor Kerckhoff,

Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-87, ANNEXATION, ERWIN ROAD, ANNADALE DRIVE AND LOCHNORA PARKWAY

Case: P96-87 (Annexation)

Initiated by: City of Durham

Location: The 8.273-acre site is located on the south side of Erwin Road, west of Annadale Drive and northeast of Lochnora Parkway (Tax Map 444-1-4)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is R-15.

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-15 City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-15 City zoning for the newly annexed property described above was approved at 7:55 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-88, ANNEXATION, CAMBRIDGE ROAD AND PICKETT ROAD

Case: P96-88 (Annexation)

Initiated by: City of Durham

Location: The 22.12-acre site is located on the west side of Cambridge Road, south of Pickett Road, east of the Orange County line (Tax Map 457-1-1, 2, 3, 10 partial)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is R-20.

To adopt an ordinance amending the Zoning Ordinance, the same

being Chapter 24 of the Durham City Code, to establish R-20 City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-20 City zoning for the newly annexed property described above was approved at 7:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-89, ANNEXATION, RANDOLPH ROAD, ERWIN ROAD AND STONEGATE DRIVE

Case: P96-89 (Annexation)

Initiated by: City of Durham

Location: The 18.506-acre site is located east of Randolph Road, south of Erwin Road, and on the north side of Stonegate Drive (Tax Map 446-1-18 partial)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is R-20.

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-20 City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-20 City zoning for the newly annexed property described above was approved at 7:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and

Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-90, ANNEXATION, CABIN BRANCH CREEK, SNOW HILL ROAD AND INFINITY ROAD

Case: P96-90 (Annexation)

Initiated by: City of Durham

Location: The 109-acre site is located on the south side of Cabin Branch Creek, west of Snow Hill Road, and north of Infinity Road, east of Goodwin Road (Tax Maps 827-1-13A; 828-1-2, 2A, 3A)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is RD; F/J-B Overlay

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish RD; F/J-B Overlay City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Larson to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish RD; F/J-B Overlay City zoning for the newly annexed property described above was approved at 7:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-91, ANNEXATION, LITTLE RIVER DAM SOUTH OF TREYBURN

Case: P96-91 (Annexation)

Initiated by: City of Durham

Location: The 130-acre site is located at the Little River Dam, south of Treyburn, north of Snow Hill Road (Tax Maps 848-2-1B; 849-1-1C partial; 850-1-27B, 27C partial)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is PDR 2.24, RD, and R-20; F/J-B and M/LR-A

Overlays

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 2.24, RD and R-20; F/J-B and M/LR-A Overlays City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 2.24, RD and R-20; F/J-B and M/LR-A Overlays City zoning for the newly annexed property described above was approved at 7:57 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-92, ANNEXATION, HERNDON ROAD, SOUTH OF BARBEE ROAD, NORTH OF FENWICK PARKWAY

Case: P96-92 (Annexation)

Initiated by: City of Durham

Location: The 62.92-acre site is located on the east side of Herndon Road, south of Barbee Road, north of Fenwick Parkway (Tax Map 533-1-2)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is R-20(D); F/J-B Overlay

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-20(D); F/J-B Overlay City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-20(D); F/J-B Overlay City zoning for the newly annexed property described above was approved at 7:57 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-63, ANNEXATION, BETWEEN DURHAM AND WAKE COUNTY, DAVIS DRIVE EXTENSION AND EAST OF RESEARCH TRIANGLE PARK

Case: P96-93 (Annexation)

Initiated by: City of Durham

Location: The 12.90-acre site is located on the southern boundary between Durham and Wake County, east of Davis Drive Extension, and east of the Research Triangle Park boundary (Tax Map 747.03.00.6486 Wake County)

Request: Initial zoning of property newly annexed into the City. A change in zoning from AD (Agricultural District) inside Morrisville ETJ to I-2 (Light Industrial) (City of Durham)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish I-2 City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish I-2 City zoning for the newly annexed property described above was approved at 7:57 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-94, ANNEXATION, GRANDALE DRIVE SOUTH OF WINEBERRY DRIVE, NORTH OF SETTLER'S MILL ROAD

Case: P96-94 (Annexation)

Initiated by: City of Durham

Location: The 11.16-acre site is located on the west side of Grandale Drive, south of Wineberry Drive, north of Settler's Mill Road (Tax Map 534A-1-1B)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is R-10; F/J-B Overlay

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-10; F/J-B Overlay City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-10; F/J-B Overlay City zoning for the newly annexed property described above was approved at 7:58 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

**SUBJECT: ZONING MATTER CASE P96-95, ANNEXATION, GUESS ROAD
NORTH OF IMPERIAL DRIVE**

Case: P96-95 (Annexation)

Initiated by: City of Durham

Location: The 101.74-acre site is located on the east side of Guess Road, north of Imperial Drive (Tax Map 833-1-6, 7, 7A, 8)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is PDR 2.11; E-B Overlay

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR-2.11; E-B Overlay City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR-2.11; E-B Overlay City zoning for the newly annexed property described above was approved at 7:58 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-96, ANNEXATION, SEDWICK ROAD WEST OF N. C. 55, EAST OF REVERE ROAD

Case: P96-96 (Annexation)

Initiated by: City of Durham

Location: The 160.19-acre site is located on the north and south side of Sedwick Road, west of N.C. 55, east of Revere Road (Tax Maps 541A-1-2-partial; 541A-2-3; 532-1-12, 9 partial)

Request: Initial zoning of property newly annexed into the City. No change in zoning classification is proposed. Existing zoning is PDR 2.243 and RD; F/J-B Overlay

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR-2.243 and RD; F/J-B Overlay City zoning for the newly annexed property described above.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR-2.243 and RD; F/J-B Overlay City zoning for the newly annexed property described above was approved at 7:58 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

**SUBJECT: PROPOSED ORDINANCE TO AMEND THE ZONING ORDINANCE TO
MODIFY STANDARDS FOR THE DEVELOPMENT OF
NONCONFORMING RESIDENTIAL LOTS (TC44-97)**

To receive citizens' comments on the proposed ordinance amendment.

To adopt "An Ordinance to Amend the Zoning Ordinance to Modify Standards for the Development of Nonconforming Residential Lots."

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Rick Prentis raised concern relative to amending the ordinance just for the purpose of one particular development or one particular part of the county without careful consideration as to the language of the ordinance. He stated it has been determined that there is a defect in the way the ordinance is drafted. Mr. Prentis asked the council to make certain the language is correct before reconsidering this item.

Larry Thomas, a resident of 9 Preakness Drive, stated it appears that the proposed amendment targets one subdivision without taking into consideration the extenuating circumstances.

Alex Fernandez, a resident of Chicopee Trail, stated the proposed amendment was only a clarification to an ordinance which has been in existence since 1993. He asked the council to support this amendment.

Charles Weil, a resident of Farrington Road, spoke in support of the ordinance.

Mayor Kerckhoff closed the public hearing.

Paul Norby, of the City/County Planning Department, stated the administration [Inspections Department and Planning Department] thought it was necessary to clarify the ordinance. He stated the administration felt as if they knew what the intent of the ordinance was; however, the wording was not clear.

Mayor Kerckhoff suggested that this item be held for two weeks to make sure the council understood the situation.

A motion was made by Council Member McKissick to refer this item to the Joint City/County Planning Committee for review. This motion was seconded by Council Member Engelhard.

Council Member Engelhard requested that when the item comes before the Joint City/County Planning Committee, that the administration provide visuals to show examples of the kinds of circumstances relative to the comments made.

MOTION by Council Member McKissick seconded by Council Member Engelhard to refer this matter to the Joint City/County Planning Committee for review was approved at 8:32 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

SUBJECT: PROPOSED ORDINANCE TO CLARIFY THE EXISTING ZONING ORDINANCE REQUIRING RECOMBINATION OF LOTS IN WATERSHED DISTRICTS (TC46-97)

To receive citizens' comments on the proposed ordinance amendment.

To adopt "An Ordinance to Clarify the Existing Zoning Ordinance Requiring Recombination of Lots in Watershed Districts."

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Rick Prentis asked the council not to pass this amendment without careful consideration as to the long-range affects.

Alex Fernandez, a resident of Chicopee Trail, noted four houses have been built in violation of the ordinance. He stated at the time the permits were issued, the lots were in single ownership.

Mayor Kerckhoff closed the public hearing.

A motion was made by Council Member Clement seconded by Council Member Griffin to refer this matter to the March 17, 1997 City Council Meeting.

SUBSTITUTE MOTION by Council Member Hyman seconded by Council Member Miller to receive citizens' comments on the proposed ordinance amendment; and

To adopt "An Ordinance to Clarify the Existing Zoning Ordinance Requiring Recombination of Lots in Watershed Districts" with February 17, 1997 date was approved at 8:59 p.m. by the following vote: Ayes: Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: Mayor Kerckhoff and Council Member Clement. Absent: Council Member Wright.

Ordinance #11039

SUBJECT: PROPOSED ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO REVISE THE FINDINGS OF FACT REQUIRED FOR GRANTING VARIANCES AND TO REVISE LANGUAGE ASSOCIATED WITH NONCONFORMING STRUCTURES OR IMPROVEMENTS (TC42-97)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member McKissick to receive citizens' comments on the proposed ordinance amendment; and

To adopt "An Ordinance to Amend the Durham Zoning Ordinance to Revise the Findings of Fact Required for Granting Variances and to Revise Language Associated with Nonconforming Structures or Improvements" was approved at 9:00 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright.

Ordinance #11040

SUBJECT: PROPOSED ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO REVISE THE CLASSIFICATION OF CERTAIN USES (TC43-97)

To receive citizens' comments on the proposed ordinance amendment.

To adopt "An Ordinance to Amend the Durham Zoning Ordinance to Revise the Classification of Certain Uses."

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Tom Miller stated there was a portion of the ordinance which raised concern with his neighborhood; however, that concern has been pulled in order for the residents to discuss. He noted he had no objections relative to the ordinance as it appears on the agenda.

Leon Myers, representing the Board of Adjustment, spoke in support of this item.

Mayor Kerckhoff closed the public hearing.

A motion was made by Council Member Larson seconded by Council Member Griffin to adopt the ordinance.

Council Member Cox raised concern relative to public utilities being minor uses rather than major uses.

SUBSTITUTE MOTION by Council Member Cox seconded by Council Member Hyman to refer this item to the Public Works Committee was approved at 9:14 p.m. by the following vote: Ayes: Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Hyman, Langley and McKissick. Noes: Mayor Kerckhoff and Council Members Clement, Miller, Larson and Griffin. Absent: Council Member Wright.

SUBJECT: ZONING MATTER CASE P96-52, GLENWOOD DEVELOPMENT COMPANY, INC., INTERSECTION OF NC 751 AND NC 54

Case: P96-52

Applicant: Glenwood Development Company, Inc.

Location: The 13.24-acre site is located at the southwest corner of the intersection of NC-751 and NC-54. It consists of 10 parcels of land identified as Tax Map 428, Block 2, Lots 7, 7A, 7B, 7C, and 8 through 13.

Request: Rezoning from R-20 (Residential 20), OI-1 (Transitional Office and Institutional) and OI-2 (General Office and Institutional); F/J-B to SC(D) (Shopping Center with Development Plan); F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20, OI-1, and OI-2; F/J-B and placing same in and establishing same as SC(D; F/J-B.

Zoning Committee's Recommendation: Approval--Vote 4-3

City Manager's Recommendation: Denial

Note: The protest petition filed against this rezoning was withdrawn.

Patrick Hennigan, President of the Glenwood Development Company, requested that this matter be continued until the April 7, 1997 City Council Meeting. He noted the additional time would allow them to work with the Hope Valley and Woodcroft Neighborhood Associations.

MOTION by Council Member Clement seconded by Council Member McKissick to continue the public hearing without further advertisement to the April 7, 1997 City Council Meeting was approved at 9:22 p.m. by the following vote: Ayes: Mayor Kerckhoff and Council Members Brown, Clement, Cox, Griffin,

Hyman, Langley and McKissick. Noes: Mayor Pro Tem Robinson and Council Members Engelhard, Miller and Larson. Absent: Council Member Wright.

**SUBJECT: ZONING MATTER CASE P96-71, MIDLAND/RALEIGH
ACQUISITION LLC, INTERSECTION OF NC 54 AND
FAYETTEVILLE ROAD**

Case: P96-71

Applicant: Midland/Raleigh Acquisition LLC

Location: The 26.2-acre site is located at the southwest corner of the intersection of NC-54 and Fayetteville Road. It consists of three parcels of land identified as Tax Map 524, Block 01, Lots 1 partial, 2 partial, and 4 partial.

Request: Rezoning from R-20 (Residential 20) and OI-2 (General Office and Institutional; MTC and F/J-B to RM-12(D) (Multifamily Residential at 12 Units Per Acre with a Development Plan); MTC and F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and OI-2; MTC and F/J-B and placing same in and establishing same as RM-12(D); MTC and F/J-B.

Note: Valid protest petition filed against this rezoning.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponents

Attorney Ken Spaulding, representing the applicant, stated they were pleased with the recommendation from the staff and the Zoning Committee.

John Silverman, the developer, addressed the council explaining the first phase of the project and the reasons they chose the site. Mr. Silverman noted the changes that were made to the development plan to accommodate the adjacent residential areas, the Rails and Trails Committee the city staff and DOT. Mr. Silverman stated the immediate neighbors in the area would benefit by having control over a development with stronger land use protections, better buffers and better developmental protections overall than they have with the current zoning which is O&I; the adjacent neighbors in the Rollingwood Subdivision will benefit from better storm water protection via a three and one-half acre pond, and the entire community benefits not only from the enhancement of a trail system across the site but also with a great needed improved traffic situation.

Opponents

Bob Radcliffe, a resident of Hemming Way, noted the residents of Rollingwood purchased their homes with the understanding that the land next to them was undeveloped and zoned R-20.

Mr. Radcliffe noted the high density of the project; the impervious surface for the developed areas; and the impact this project would have on existing schools.

Alvin Oakley, a resident of Dunhill Drive, stated when the residents of the Folkstone Subdivision purchased their homes, they accepted the fact that offices could be built as close as 30 feet from their property lines, and the Rollingwood residents accepted/assumed single family homes would be constructed next to their homes. Mr. Oakley noted that in 1986, the property behind Folkstone was zoned O-I(2) by the Durham City Council. He also stated he was opposed to the project due to the increase in traffic.

Paul Nicholson, a resident of Hemming Way, stated he felt it was not appropriate to place three story buildings against R-20 zoning. He noted residents in the area were very concerned about losing the stop lights at Rollingwood Drive and NC 54. He stated the proposal [shopping center] should be placed on the other side of I-40 where it already zoned commercial.

Laurel Solomon, a resident of Hemming Way, stated if the council approved this project over their protest the residents wanted to make sure their concerns were addressed. She noted the Zoning Committee approved the request subject to all of the requirements of the neighborhood: 1) No extension of Hemming Way as either a vehicular or pedestrian entrance into the apartment complex and 24-hour Kroger Supercenter; 2) A continuous undisturbed buffer of at least 50 feet, with a continuous wooden fence of 8 feet around the perimeter of Rollingwood and Folkstone on the apartment side; 3) Preservation of the traffic light at NC 54 and Rollingwood Drive; 4) The developer must not be allowed the option of abandoning the Fayetteville Road entrance in the future; 5) Do not approve this project until the City has all the resources necessary to implement all of the recommended traffic improvements at NC 54 and Fayetteville Road; 6) Express protection on the development plan for the 12.8 acre open space north of the developed area, which is required for impervious surface calculation; and 7) The developer must state the performance standards of the detention pond, and be held accountable for them.

Leonard Vogel, a resident of Dunhill Drive, stated this rezoning will be a major change for south Durham. He stated if this plan is approved, two shopping centers would be located directly across the street from one another.

Rebuttal

Attorney Ken Spaulding stated the proposal conforms with the 2020 Land Use Plan. He stated the Planning Staff does have an opinion regarding the undisturbed buffer and fence; however, the developer would be willing to work with whatever the council wants. Relative to the connector road and pedestrian way, he stated this matter was not on the developer's plan because the residents ask the developer not to include this item. In regard to the open space matter, he stated they have placed a note on the plan.

Relative to the performance of the detention pond, Mr. Silverman stated they have agreed not to use any chemicals in the regular maintenance which will help keep the quality of the pond at a high level. He noted the units per acre would be seven, not 12 or 16. With the traffic improvements, he stated their proposal would make the intersection of NC 54 and Fayetteville Road a Level C as opposed to a Level F which it currently is operating as.

Pamela Blyth, Chair of Durham Open Space & Trails Commission, commended the developer on his efforts in working with the commission to achieve trail access across the property.

William Walkowe, a resident of 9 Barwinds Circle, stated the traffic improvements by the developer would help alleviate traffic problems on NC 54 and Fayetteville Road. He noted the proposed development would be an asset to the community.

Tom Mappes, a resident of Fortunes Ridge, commended the developer on the additions to the plan relative to greenways.

Mayor Kerckhoff closed the public hearing.

Council Member Brown raised concern relative to how the modifications incorporated on the plan will be enforced and if the project being proposed is consistent with the planning staff's plan for the site. She also asked for clarification on how many stories the apartments would have.

Paul Norby, of the City/County Planning Department, stated the modifications to the development plan that the developer has mentioned - "the council needed to make sure before a vote is taken that the developer agrees to add all of the modifications as notes to the development plan." He noted if the rezoning is passed, the modifications would officially become a part of the development plan. He stated when the site plan comes forward it would need to reflect all the notes. Relative to enforcement, he stated the developer is subject to building the development in full compliance with the site plan. Relative to the question on the proposal being consistent with the planning staff's plans for this area, he noted it was the city council's plan for this area which was adopted.

Nazeeh Abdul-Hakeem, of the City/County Planning Department, stated that buildings 2, 5 and 13 were two stories facing the neighborhood. Also, Mr. Hakeem briefed the council on the South Durham Plan, 2005 Comprehensive Plan and the Durham 2020 Comprehensive Plan.

Earl Lewellyn, of the Transportation Department, noted the following street improvements necessary to achieve an adequate level of service: construction of an additional thru lane along the entire NC 54 frontage; construction of an exclusive right-turn lane on 54 at each of the 54 entrances; construction of an exclusive left and right turn-lane on Fayetteville Road at the Kroger Center entrance; construction of widening on Fayetteville Road both north and south of the Fayetteville Road NC 54 intersection to provide dual northbound left-turns at the intersection; and participation up to 50 percent of the construction costs of an additional westbound thru lane on NC 54 east of the Fayetteville Road intersection.

Mr. Lewellyn stated the street improvements would be recommendations that the administration would ask council to include as a part of the special use permit which is required.

Paul Norby, of the City/County Planning Department, informed the council that due to the recent changes the developer plans to make with respect to the traffic; they have complied with the concerns listed in the City Manager's recommendation.

Discussion was held on whether the Level of Service at intersection NC 54 and Fayetteville Road would improve to a Level C or D.

Council Member McKissick asked the developer if he agreed with the street improvements being a part of the rezoning request as stated by Mr. Lewellyn.

John Silverman, the developer, stated he was in agreement with the list of street improvements stated by Mr. Lewellyn plus an additional southbound right-turn lane on Fayetteville Road at the intersection. Mr. Silverman noted the additional southbound right-turn lane would provide a Level of Service C at the intersection.

Earl Lewellyn stated he was unaware of the additional southbound right-turn lane of Fayetteville Road. He stated this additional improvement would bring the Level of Service to a C.

At this time, Mr. Silverman stated they have agreed to the following items: 1) The perimeter feet of undisturbed buffer

is 50 feet at its minimum and extends to greater than 150 feet in certain areas; 2) Provided for permanent non-developer buffer between Folkstone and Rollingwood Subdivisions of 12.8 acres; 3) Lowered the density level from 336 units to 288 units; 4) Improve the storm water run-off situation by oversizing a retention/detention pond; 5) Modify an access route to the multi-family area off Fayetteville Road to create a drive whereby one would not need to go through in front of the shops to get to the apartment area; 6) Reduce amount of parking in a lot of areas and plan reflects that change; 7) Reduce the height of _____ buildings from three stories to two stories; 8) Construct one centralized dumpster area in the apartment area; 9) Building relocation depicted on the plan; 10) Not use chemicals in the regular maintenance of the landscaping; 11) Construct 8 foot solid wood fence around the perimeter; 12) Architectural renderings of apartments to be attached to the development plan; 13) All of the road improvements as previously outlined; and 14) Letter dated February 17, 1997 concerning phasing of improvements.

Council Member Engelhard asked the developer to place a note on the plan concerning impervious surface calculations regarding the buffer.

At this time, discussion was held on pedestrian access. Mr. Silverman noted that he had made an agreement with the residents to provide a fence instead of pedestrian crossing. Mr. Silverman stated if they were asked by council to provide pedestrian access they would comply.

A motion was made by Council Member McKissick to approve the rezoning request with modifications to the development plan and to include pedestrian connection from Hemming Way to the apartments. This motion was seconded by Council Member Miller.

Council Member Engelhard requested that pedestrian access along the front of N. C. Hwy. 54 be provided rather than pedestrian connection from Hemming Way to the apartments.

Council Members McKissick and Miller stated they would agree with the amendment by Ms. Engelhard.

MOTION by Council Member McKissick seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and OI-2; MTC and F/J-B and placing same in and establishing same as RM-12(D); MTC and F/J-B with the modifications to the development plan and pedestrian access along the front of N.C. Hwy 54 **FAILED** at 11:19 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, McKissick and Miller. Noes:

Council Members Langley, Larson and Hyman. Absent: Council Member Wright.

MOTION by Council Member McKissick seconded by Council Member Miller to continue the meeting on Tuesday, February 18, 1997 at 7:30 p.m. was approved at 11:22 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Engelhard, Langley, Larson, McKissick and Miller. Noes: Council Members Hyman, Cox, Clement and Griffin. Absent: Council Member Wright.

**DURHAM, NORTH CAROLINA
TUESDAY, FEBRUARY 18, 1997
7:30 P.M.**

The Durham City Council reconvened their meeting on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

Also present: Interim City Manager Cecil Brown, City Attorney William I. Thornton, Jr., City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

The meeting was called to order by the Mayor.

MOTION by Council Member Miller seconded by Council Member Clement to not excuse any Council Members from the reconvened meeting was approved at 7:39 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: Council Member Cox. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

Council Member Clement informed the council that the Oversight Committee for the New City Manager would meet on Wednesday, February 19, 1997 at 8:00 a.m., City Manager's Conference Room.

MOTION by Council Member Langley seconded by Council Member McKissick to reconsider the vote on Zoning Case P96-71 was approved at 7:42 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, McKissick and Miller. Noes: Council Member Larson. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

**SUBJECT: ZONING MATTER CASE P96-71, MIDLAND/RALEIGH
ACQUISITION LLC, INTERSECTION OF NC 54 AND
FAYETTEVILLE ROAD**

Case: P96-71

Applicant: Midland/Raleigh Acquisition LLC

Location: The 26.2-acre site is located at the southwest corner of the intersection of NC-54 and Fayetteville Road. It consists of three parcels of land identified as Tax Map 524, Block 01, Lots 1 partial, 2 partial, and 4 partial.

Request: Rezoning from R-20 (Residential 20) and OI-2 (General Office and Institutional; MTC and F/J-B to RM-12(D) (Multifamily Residential at 12 Units Per Acre with a Development Plan); MTC and F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and OI-2; MTC and F/J-B and placing same in and establishing same as RM-12(D); MTC and F/J-B.

Note: Valid protest petition filed against this rezoning.

MOTION by Council Member Clement seconded by Council Member McKissick to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and OI-2; MTC and F/J-B and placing same in and establishing same as RM-12(D); MTC and F/J-B with the modifications to the development plan and pedestrian access along the front of N. C. Hwy. 54 was approved at 7:43 p.m. by the following vote:
Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, McKissick and Miller. Noes: Council Member Larson.
Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

**SUBJECT: ZONING MATTER CASE P96-70, MIDLAND/RALEIGH
ACQUISITION LLC, INTERSECTION OF NC 54 AND
FAYETTEVILLE ROAD**

Case: P96-70

Applicant: Midland/Raleigh Acquisition LLC

Location: The 18.64-acre site is located at the northwest corner of the intersection of NC 54 and Fayetteville Road. It involves 5 parcels of land identified as Tax Map 524, Block 1, Lots 1 partial, 2 partial, 4 partial, 6A, and Tax Map 525, Block 2, Lot 7

Request: Rezoning from R-20 (Residential) and OI-2, (General Office and Institutional); MTC and F/J-B to SC(D) (Shopping Center with Development Plan) MTC and F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same

being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and OI-2; MTC and F/J-B and placing same in and establishing same as SC(D); MTC and F/J-B.

Zoning Committee's Recommendation: Approval 7-0

City Manager's Recommendation: This proposed development is recommended provided that requested modifications to the Development Plan are made by the applicant. Concerning the Transportation Department's discussion on Fayetteville Road, it is recognized that the applicant has agreed to make all transportation improvements that they feel are related and commensurate to the direct impacts of their proposed development. However, Council should be aware before deciding on this case that there are other deficiencies beyond what the applicant feels are directly related to this proposal that the Transportation Department feels are important to be addressed by the applicant or by other entities.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponents

Attorney Ken Spaulding, representing the applicant, addressed the council stating that the planning staff recommended approval of this request. He noted the proposal was a part of the 2020 Land Use Plan that the council approved.

John Silverman, the developer, briefed council on the reason the site was chosen for the development; the acreage of the site; architectural renderings; and the transportation improvements.

Opponents

Bob Radcliffe, a resident of Hemming Way, spoke in opposition to this request. In addition to the Homestead Market Shopping Center already located across the street, he stated the proposal would have a supermarket/shopping center which would house a 24-hour Kroger Center 500 feet from the R-20 neighborhood. He stated they do not need another shopping center.

Alvin Oakley, a resident of Dunhill Drive, spoke in opposition to this request and council's reconsideration of Zoning Case P96-71. Mr. Oakely stated council's action was politics at its worst.

Vanessa Jenkins, a resident of this area, stated she probably would lose more than anyone else relative to this proposal. She stated her home was the closest to the shopping center

and the apartments. She stated when the Homestead Market Shopping Center was developed, they were told the same things that they are being told now about this new request [noise level would be low; lights would be low]. She noted there was not a day that passed they had to listen to the roaring of the street cleaning in the parking lot at Homestead Market; the garbage trucks; the delivery trucks; and the annoying lights at night. Ms. Jenkins asked the council to consider the residents feelings and their investments already made in this area.

Howard Clark, a resident of Rollingwood Subdivision, stated there was already four grocery stores in the area and another one was not needed in their neighborhood nor apartments consisting of three-stories.

Leonard Vogel, a resident of Dunhill Drive, spoke in opposition to council's reconsideration and passage of Zoning Case P96-71.

Rebuttal

Attorney Ken Spaulding noted that the planning staff indicated to his client that the City Council had adopted unanimously the 2020 Land Use Plan. He stated the planning staff made them aware of the locations in Durham where development could occur, and the request being presented this evening was one of the areas where development could take place. He stated it was his understanding they have conformed with the planning department's request and the 2020 Land Use Plan.

John Silverman, the developer, stated he wanted to make it clear that all of the apartments were not three stories. Mr. Silverman explained their reasons for presenting two separate zoning cases. He also stated the planning staff has required him to adequately buffer the homes in Rollingwood which addresses Ms. Jenkins' concerns.

Council Member McKissick asked the planning staff what commitments have been made by the developer with respect to this proposal.

Nazeem Abdul-Hakeem, of the City/County Planning Department, stated one of the most important issues that needed to be addressed was the future abandonment of the crossing of the American Tobacco Rail/Trail. He noted the North Carolina Department of Transportation Rail Division had not approved a contract for this crossing; however they will approve a contract along with the City of Durham. He stated the staff's contention is that the crossing cannot be abandoned it must remain as long as the shopping center remains. He stated the staff would like for a note on the development plan indicating that the driveway crossing of the rail trail

corridor will be converted to a grade-separated configuration if the trail reverts back to rail use or fixed guideway transit.

John Silverman, the developer, stated he was willing to add the note to the development plan as stated by Mr. Hakeem relative to the driveway crossing of the rail trail corridor.

Earl Lewellyn, of the Transportation Department, noted the the following street improvements necessary to achieve a Level of Service C: construction of an additional thru lane along the entire NC 54 frontage; construction of exclusive right-turn lanes on NC 54 at both of the entrances on NC 54; construction of an exclusive left and right-turn lane on Fayetteville Road at the Kroger Center entrance; construction of widening on Fayetteville Road north and south of the Fayetteville Road and NC 54 intersection so as to provide dual northbound left-turns at the intersection; participate up to 50 percent in the construction costs of an additional westbound thru lane on NC 54 east of the Fayetteville Road intersection; and a southbound right-turn lane on Fayetteville Road at the intersection.

John Silverman, the developer, stated he was in agreement with the street improvements as stated by the staff and they would be incorporated as part of the plan. Mr. Silverman also noted that the architectural renderings presented this evening would be a part of the development plan along with the letter dated February 17, 1997 concerning phasing of the improvements.

A motion was made by Council Member McKissick seconded by Council Member Miller to approve the request with the modifications to the development plan.

Council Member Cox raised concern relative to the Kroger Center being to large in the neighborhood. He stated he could not support this request.

Mayor Kerckhoff closed the public hearing.

In addition to the roadway improvements mentioned on Monday evening, Council Member Larson stated it was his understanding that pedestrian access was to be provided on NC 54. Mr. Larson stated he wanted to make sure it was a part of this request also.

John Silverman, the developer, stated he would provide pedestrian access on NC 54 on this proposal.

Council Member Larson raised concern relative to the back of the shopping center.

John Silverman, the developer, stated they have agreed to

place brick on all four sides of the shopping center.

MOTION by Council Member McKissick seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and OI-2; MTC and F/J-B and placing same in and establishing same as SC(D); MTC and F/J-B with modifications to the development plan and pedestrian access along the front of N. C. Hwy. 54 was approved at 8:30 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Engelhard, Griffin, Hyman, Langley, McKissick and Miller. Noes: Council Members Cox and Larson. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

**SUBJECT: DETERMINATION OF NEED FOR MAJOR SPECIAL USE PERMIT
FOR MIDLAND/RALEIGH ACQUISITION, LLC (KROGER CENTER)
P96-70**

To determine if a Major Special Use Permit for Traffic Impact is required for Midland/Raleigh Acquisition, LLC (Kroger Center) and if so, to set a public hearing on Monday, March 17, 1997.

MOTION by Council Member Larson seconded by Council Member Miller to set a public hearing on Monday, March 17, 1997 for a Major Special Use Permit for Traffic Impact for Midland-Raleigh Acquisition, LLC (Kroger Center) was approved at 8:31 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

**SUBJECT: ZONING MATTER CASE P96-76, M. L. DURHAM ASSOCIATES,
CORNWALLIS ROAD AND INDUSTRY LANE INTERSECTION**

Case: P96-76

Applicant: M. L. Durham Associates

Location: The 5-acre site is located on Cornwallis Road just west of the Industry Lane intersection (Tax Map 407, Block 02, Lot 003A partial)

Request: Rezoning from OI-2 (General Office and Institutional) to RM-12(D) (Residential Multifamily at 12 Units Per Acre with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2 and placing same in and establishing same as RM-12(D).

Zoning Committee's Recommendation: Approval 4-3

City Manager's Recommendation: Denial

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Skip London, representing the applicant, spoke in support of the request. Mr. London briefed council on the history of the site and noted the reason they are proposing only a portion of the site to be developed at this time.

No one spoke in opposition. Mayor Kerckhoff closed the public hearing.

Nazeeh Abdul-Hakeem, of the City/County Planning Department, noted the following concerns of the planning staff: 1) The site is isolated from the public; 2) Development will be "pancaked"; 3) An intermittent stream will be piped and its stream buffer will be eliminated; 4) Transportation Department does not want apartments on a cul-de-sac and the road extended to the site does not show where the road will lead to; and 5) The Engineering Department cannot provide adequate studies for water and sewer due to the piecemeal development of this site.

He stated the administration would like to be able to comment on the total development; however, without a subdivision plan or development plan for the entire parcel, they could not support this request.

Rebuttal

Skip London stated they have addressed each of these concerns with staff.

Council Members McKissick and Clement requested that the applicant be given time to rethink the proposal to work out the staff's concerns.

MOTION by Council Member Clement seconded by Council Member McKissick to defer the decision on this rezoning request until the March 17, 1997 City Council Meeting [without further advertising] was approved at 9:13 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Engelhard, Griffin, Hyman, Langley, Larson and McKissick. Noes: Council Members Cox and Miller. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

**SUBJECT: ZONING MATTER CASE P96-81, GAR, INC, 1502 AND 1504
NC HIGHWAY 54**

Case: P96-81

Applicant: GAR, Inc.

Location: The 1.26-acre site is located at 1502 and 1504 NC Highway 54, identified as Tax Map 428, Block 3, Lots 7 and 7A

Request: Rezoning from R-20 (Residential 20); F/J-B to OI-1 (Transitional Office and Institutional); F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; F/J-B and placing same in and establishing same as OI-1; F/J-B.

Zoning Committee's Recommendation: Approval 5-2 (Draft minutes of the January 14 Zoning Committee Meeting to follow)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Kim Griffin, Jr., the applicant, spoke in support of the request.

No one spoke in opposition. The Mayor closed the public hearing.

Council Member Griffin informed his colleagues that he had no financial interest relative to this rezoning request.

MOTION by Council Member McKissick seconded by Mayor Pro Tem Robinson to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; F/J-B and placing same in and establishing same as OI-1; F/J-B was approved at 9:16 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

SUBJECT: ZONING MATTER CASE P96-83, CRESCENT COLEMAN VENTURES LLC, 5723 AND 5725 BARBEE ROAD

Case: P96-83

Applicant: Crescent Coleman Ventures LLC

Location: The 16.817-acre site is located at 5723 and 5725 Barbee Road. It consists of three parcels of land identified as Tax Map 520, Block 4, Lots 1, 2, and 3

Request: Rezoning from R-20 (Residential 20); F/J-B to PDR-3.51 (Planned Density Residential at 3.51 dwelling units per acre); F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same

being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; F/J-B and placing same in and establishing same as PDR-3.51; F/J-B.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Bill Roberts, representing the applicant, spoke in support of the request. He stated they were in agreement with the staff with the exception of thru-traffic traveling through the project.

No one spoke in opposition. The Mayor closed the public hearing.

The administration raised concern raised concern relative to the applicant not wanting to provide a street stub out to the south. By not providing inter-neighborhood connection, the administration felt this could hinder efficient delivery of public services such as police, fire and sanitation.

Donald Phillips, the developer, addressed the council explaining the reasons for not wanting thru-traffic traveling through the project.

After discussion by council, Mr. Phillips stated he would provide the street stub-out to the south on the development plan.

MOTION by Council Member Clement seconded by Council Member McKissick to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; F/J-B and placing same in and establishing same as PDR-3.51; F/J-B **[with development plan to indicate street stub-out to the south]** was approved at 9:43 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: Council Member Engelhard. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

[OTHER MATTERS]

SUBJECT: DEVELOPER SELECTION FOR GLENDALE APARTMENTS, NEW DIRECTIONS FOR DOWNTOWN, INC., UNITED EQUITIES

MOTION by Council Member Clement seconded by Council Member Larson to give preliminary approval to the development team of New Directions for Downtown, Inc./United Equities as the developer of the Glendale Apartments subject to the developer's receipt of approval of an allocation of federal low income housing tax credits by July 31, 1997, all

development project details being negotiated with the developers to the satisfaction of the City, and approval by the City Council of the legal documentation for the project was approved at 9:43 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

SUBJECT: 1996-97 BEER AND WINE LICENSES

MOTION by Council Member Larson seconded by Council Member Miller to approve the issuance of Beer and Wine Licenses to the establishments listed below was approved at 9:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

Restaurants

CRC Management Co. LLC (new)	Joel's Tavern & Grill
T/A Fuddruckers Restaurant	216 Davidson Avenue
1809 Martin Luther King Pkwy	Joel E. King
C. Richard Epps	Beer on premises (new)
Beer on premises	Wine on premises
Wine on premises	
Ocean Drive (renewal)	Taqueria Mi Pueblo (new)
Bull Park Inc.	1919 Holloway Street
2000 Avondale Drive #D	Heidi S. Burgess
Victor L. Parker, Jr.	Beer on premises
Beer on premises	
Wine on premises	

Others

Cricket Inn-Durham Duke	Doyle's Sports Bar
(new owner)	(new owner)
2306 Elba Street	3219-A Chapel Hill Road
Bob Miller	David Doyle
Beer off premises	Beer on/off premises
Wine off premises	Wine on/off premises

Executive Club (new)
117 W. Main Street
Alden W. Jackson
Beer on/off premises
Wine on/off premises

MOTION by Council Member Larson seconded by Council Member

McKissick to approve the issuance of Beer and Wine Licenses to The College Inn, 1306 Fayetteville Street was approved at 9:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: Council Member Clement. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

**SUBJECT: DETERMINATION OF NEED FOR MAJOR SPECIAL USE PERMIT
FOR DURHAM CROSSING SHOPPING CENTER (GLENWOOD
DEVELOPMENT)**

To determine if a Major Special Use Permit for Traffic Impact is required for Durham Crossing Shopping Center (Glenwood Development) and if so, to set a public hearing on Monday, March 3 1997.

MOTION by Council Member McKissick seconded by Council Member Miller to continue this matter to the April 7, 1997 City Council Meeting was approved at 9:46 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

SUBJECT: TAXICAB COMMISSION REPORT

To receive a report from the Taxicab Commission and to take action on the recommendations of the Taxicab Commission--pursuant to Section 22.159.10 of the Durham City Code.

a. Transfer of Operator's Licenses

1. Transfer of M. H. Cab Company #106 to Edgar Hunter, III

Taxicab Inspector's Recommendation: Transfer Operator's License (in accordance with City Code)

Taxicab Commission's Recommendation: Transfer Operator's License (Vote 3-0)

MOTION by Council Member Larson seconded by Council Member Miller to approve the Taxicab Commission's recommendation [transfer of operator's license of M. H. Cab Company #106 to Edgar Hunter, III] was approved at 9:47 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

2. Transfer of Reed's Cab Company #6 to Sirageldin A. Osman

Taxicab Inspector's Recommendation: Transfer Operator's License (in accordance with City Code)

Taxicab Commission's Recommendation: Transfer Operator's License (Vote 3-0)

MOTION by Council Member Larson seconded by Council Member Miller to approve the Taxicab Commission's recommendation [transfer operator's license of Reed's Cab Company #6 to Sirageldin A. Osman] was approved at 9:47 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

b. Revocation of Operator's License - P. M. Cab Company #113

Taxicab Inspector's Recommendation: Revoke Operator's License (in accordance with City Code)

Taxicab Commission's Recommendation: Revoke Operator's License (Vote 4-0)

Note: This item to be continued until the March 3, 1997 City Council Meeting.

SUBJECT: CONSULTANT'S REPORT ON THE DURHAM POLICE DEPARTMENT

MOTION by Council Member Miller seconded by Council Member Larson to receive the Consultant's Report on the Durham Police Department and to refer the Report to the Administration for development of an implementation plan to be brought to the March 17, 1997 City Council Meeting [discussion at the March 13, 1997 Committee-of-the-Whole Meeting] was approved at 9:48 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

[ITEMS PULLED FROM THE CONSENT AGENDA]

SUBJECT: PROPOSED EASEMENT TO PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC. FOR A DISTRICT REGULATOR AT BROWN

WATER TREATMENT PLANT

To authorize the conveyance of an easement to Public Service Company of North Carolina, Inc. at the Brown Water Treatment Water Treatment Plant.

MOTION by Council Member Cox seconded by Council Member Clement to refer this item to the Public Works Committee was approved at 9:49 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

SUBJECT: SITE PLAN APPROVAL - FORTRESS SELF STORAGE, LTD

Council Member McKissick raised concern on the appearance of this self storage site.

MOTION by Council Member Clement seconded by Council Member Miller to approve a site plan for Fortress Self Storage, Ltd. consisting of 56,104 square feet of warehouse (mini-storage) and office use on 3.042 acres, zoned I-2, located at the intersection of Martin Luther King, Jr. Parkway (south side) and Fayetteville Road (east side) (Tax Map #407-02-003A partial) was approved at 9:58 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Engelhard, Griffin, Hyman, Langley, Larson and Miller. Noes: Council Members Cox and McKissick. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

MOTION by Council Member McKissick seconded by Council Member Clement to refer the concerns relative to self storage sites to the Joint City/County Planning Committee was approved at 9:59 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Cox Engelhard, Griffin, Hyman, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Wright. Unexcused Absence: Council Members Brown and Hyman.

There being no further business to come before the Council, the meeting was adjourned at 10:00 p.m.

D. Ann Gray
Deputy City Clerk

Margaret M. Bowers, CMC
City Clerk